

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

DESMOND WITHERSPOON,

Plaintiff

-against-

SONAR PRODUCTIONS LLC, INC.,

Defendant.

15-cv-09150 (LAP)

ORDER

LORETTA A. PRESKA, Senior United States District Judge:

Before the Court is Plaintiff Desmond Witherspoon's notice of motion to reopen his case. (See dkt. no. 9). For the following reasons, that motion is DENIED.

This is the second such motion Mr. Witherspoon has filed in this action. By Order dated December 9, 2016, this Court denied Plaintiff's first motion to reopen the case. (See dkt. no. 6.) The Court noted therein that: it had previously dismissed this action and a second pro se action initiated by Plaintiff; that "Plaintiff had been previously barred from filing any civil actions in this Court in forma pauperis without first obtaining the Court's leave to file;" that Plaintiff failed to obtain the Court's leave before making the filing; and that Plaintiff failed to provide the Court sufficient reason to grant him Rule 60(b) relief. (Id.) Accordingly, the Court denied the motion and directed the Clerk of Court not to accept further submissions from Plaintiff in either action. (Id.)

Plaintiff's second notice of motion to reopen is yet another frivolous filing that directly contravenes this Court's plainly stated directive. Plaintiff has once again failed to seek leave from this Court prior to filing his motion. Moreover, Plaintiff's motion asks the Court to "Grant verdict [sic] in favor of Plaintiff." (See dkt. no. 9.) Plaintiff lists, as the only "facts that are relevant to the motion," that the "U.S. Code used on case [sic] was not applied." (See id.) Liberally construed as a Rule 60(b) motion, Plaintiff fails to provide any plausible basis for relief.

Accordingly, the motion (see dkt. no. 9) is DENIED.

The Clerk of Court is directed to mail a copy of this order to Plaintiff and note service on the docket, and is further directed not to accept further submissions from Plaintiff in this action, with the exception of a notice of appeal. The Court certifies, pursuant to 28 U.S.C. § 1915(a)(3), that any appeal from this Order would not be taken in good faith and therefore in forma pauperis status is denied for any appeal. See Coppedge v. United States, 369 U.S. 438, 444-45 (1962).

SO ORDERED.

Dated: New York, New York
October 29, 2020

Loretta A. Preska
LORETTA A. PRESKA
Senior United States District Judge